

Approved For Release 2002/09/05 : CIA-RDP86-00101R000100030009-2

TO:		DDA
ROOM NO.	BUILDING	HQ
REMARKS: <i>File Title I</i>		
FROM:		OLC
ROOM NO.	BUILDING	EXTENSION

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THE DIRECTOR OF CENTRAL INTELLIGENCE

000 70-0099/L

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Office of Legislative Counsel

7 FEB 1978

Mr. Elliot Maxwell
Select Committee on Intelligence Staff
United States Senate
Washington, D.C. 20510

Dear Elliot:

Enclosed is a copy of your 2 February 1978 draft Title I (Q 1759) and the additional provisions relating to sections 104, 131, 132, et seq., which we received from you earlier today. I have penned in some suggested changes and explanations based on my review of the material and on additional comments received from OGC and operational components. We have not had sufficient opportunity to go through the additional material we received earlier today. I have noted a few of the more serious problems we have but there are others and I will try to have these up to you as soon as possible tomorrow.

I would like to direct your attention to two particularly important provisions--namely, those relating to reporting to the Congress of proposed foreign liaison arrangements (section 114(j) at page 23) and the provision relating to protection of sources and methods (section 114(l) at page 24). As regards reporting to the Congress of proposed foreign liaison arrangements, we would like to reemphasize strongly that the mere treatment in statute of a requirement that proposed liaison agreements be reported to the Congress raises serious questions as to the willingness or ability of certain liaison services to continue to deal with the Agency as has been done up to this point. In point of fact, foreign liaison arrangements yield important and in some cases critical foreign intelligence. Already, based on perceptions of wide dissemination of particulars of liaison arrangements--both through oversight and FOIA requirements--certain foreign services have evinced some degree of hesitancy to deal with us in as open or productive a manner as previously. At a minimum, such concerns could be heightened if the language now in 114(j) remains and at worse it is not unreasonable to expect that some foreign services may elect not to deal with us at all. As drafted, the language in 114(j) covers any "proposed agreement," without limiting such reporting to the texts of agreements or extending coverage only to "international agreements" other than treaties as under the Case Act. It is therefore urged that the matter of including such a reporting requirement in the charter legislation be reconsidered.

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The authority contained in present section 114(l) specifies only that the Director "shall protect, subject to the provisions of the Act, intelligence sources and methods..." This language is not even as strong a statutory directive as contained in the present charter, which places an affirmative responsibility on the Director of Central Intelligence to protect intelligence sources and methods. We strongly urge that at a minimum treatment of sources and methods protection in the draft charter extend at least as far as the present charter in granting affirmative responsibility to the Director. The present language in section 114(l) grants neither final nor exclusive responsibility to the Director and, among other things, raises questions as to the application of this responsibility to other law (e.g., FOIA).

I am enclosing also similarly annotated copies of Title II and of the remedies section for Title II which we received separately. Again, the suggested changes reflect review by myself, OGC and operational components. Finally, I am enclosing page 45 from Title V with two suggested changes written in; this reflects a serious concern that the present language in subsection (b) could severely dilute the Agency's role in conducting clandestine signals intelligence operations and in prescribing "unique communications security methods and procedures." I have received additional comments on Title V but I have not had sufficient time to consider them fully. I will try to have them to you as soon as possible tomorrow.

Please feel free to call if you have any comments or questions on these suggestions.

Sincerely,

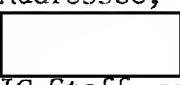
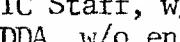


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Assistant Legislative Counsel

Enclosures

Distribution:

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